UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JOSE ANTONIO SOLANO, and all others similarly situated under 29 U.S.C. 216 (b), Plaintiff,	§	
v.	§	**Cause No. 3:15-cv-00555-G**
ALI BABA MEDITERRANEAN GRILL, INC., MEDITERRANEAN RESTAURANT HOLDINGS, INC., SHANAA & CHANAA ENTERPRISES, INC., GRIP MEDITERRANEAN GRILL LLC, GRIP COLLEGE PARK LLC, CAFÉ ALI BABA EXPRESS, INC., GRIP PRESTON CENTER LLC, ADHAM SHANAA, and JALAL CHANAA Defendant.	§	

FIRST AMENDED COMPLAINT UNDER 29 U.S.C. §§ 201- 216
OVERTIME AND MINIMUM WAGE VIOLATIONS

Plaintiff, JOSE ANTONIO SOLANO, on behalf of himself and all others similarly situated under 29 U.S.C. § 216(B), through undersigned counsel, files this Complaint against Defendants ALI BABA MEDITERRANEAN GRILL, INC., MEDITERRANEAN RESTAURANT HOLDINGS, INC., SHANAA & CHANAA ENTERPRISES, INC., GRIP MEDITERRANEAN GRILL LLC, GRIP COLLEGE PARK LLC, CAFÉ ALI BABA EXPRESS, INC., GRIP PRESTON CENTER, LLC, ADHAM SHANAA, and JALAL CHANAA and alleges:

1. This is an action arising under the Fair Labor Standards Act 29 U.S.C. §§ 201-216.

2. The Plaintiff was a resident of Dallas County, Texas at the time this dispute arose.
3. The corporate Defendant ALI BABA MEDITERRANEAN GRILL, INC. is a corporation that regularly transacts business within Dallas County. Upon information and belief, the Defendant Corporation was the joint FLSA employer for Plaintiff's respective period of employment ("the relevant time period").
4. The corporate Defendant MEDITERRANEAN RESTAURANT HOLDINGS, INC. is a corporation that regularly transacts business within Dallas County. Upon information and belief, the Defendant Corporation was the joint FLSA employer for Plaintiff's respective period of employment ("the relevant time period").
5. The corporate Defendant SHANAA & CHANAA ENTERPRISES, INC. is a corporation that regularly transacts business within Dallas County. Upon information and belief, the Defendant Corporation was the joint FLSA employer for Plaintiff's respective period of employment ("the relevant time period").
6. The corporate Defendant GRIP MEDITERRANEAN GRILL LLC is a corporation that regularly transacts business within Dallas County. Upon information and belief, the Defendant Corporation was the joint FLSA employer for Plaintiff's respective period of employment ("the relevant time period").
7. The corporate Defendant GRIP COLLEGE PARK LLC is a corporation that regularly transacts business within Dallas County. Upon information and belief, the Defendant Corporation was the joint FLSA employer for Plaintiff's respective period of employment ("the relevant time period").
8. The corporate Defendant CAFÉ ALI BABA EXPRESS, INC. is a corporation that regularly transacts business within Dallas County. Upon information and belief, the Defendant

Corporation was the joint FLSA employer for Plaintiff's respective period of employment ("the relevant time period").

9. The corporate Defendant GRIP PRESTON CENTER LLC is a corporation that regularly transacts business within Dallas County. Upon information and belief, the Defendant Corporation was the joint FLSA employer for Plaintiff's respective period of employment ("the relevant time period").

10. The individual Defendant ADHAM SHANAA is a corporate officer and/or owner of the Defendant Corporation who runs the day-to-day operations of the Corporate Defendant for the relevant time period and was responsible for paying Plaintiff's wages for the relevant time period and controlled Plaintiff's work and schedule and was therefore Plaintiff's employer as defined by 29 U.S.C. § 203(d).

11. The individual Defendant JALAL CHANAA is a corporate officer and/or owner of the Defendant Corporation who runs the day-to-day operations of the Corporate Defendant for the relevant time period and was responsible for paying Plaintiff's wages for the relevant time period and controlled Plaintiff's work and schedule and was therefore Plaintiff's employer as defined by 29 U.S.C. § 203(d).

12. Venue is proper in the Northern District of Texas because all acts or omissions giving rise to this dispute took place in the Northern District of Texas.

COUNT I. FEDERAL OVERTIME WAGE VIOLATION

13. This action arises under the laws of the United States. This case is brought as a collective action under 29 U.S.C. § 216(B). It is believed that the Defendants have employed other similarly situated employees like the Plaintiff who have not been paid minimum wages and/or overtime for work performed in excess of 40 hours weekly from the filing of this

complaint back at least three years. The Court, in its discretion, may use its equitable powers to toll the applicable statute of limitations in FLSA cases. For example, equitable tolling is proper when employees are prevented from asserting their claims by some kind of wrongful conduct on the part of their employer. *See* Harris v. Hutchinson, 209 F.3d 325 at 330 (4th Cir. 2000) (citing Alvarez-Machain v. United States, 107 F.3d 696, 700 (9th Cir. 1996)).

14. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 as this case is brought pursuant to The Fair Labor Standards Act, 29 U.S.C. §§ 201-219 (section #216 for jurisdictional placement).
15. 29 U.S.C. § 207(a)(1) states, "if an employer employs an employee for more than forty hours in any work week, the employer must compensate the employee for hours in excess of forty at the rate of at least one and one half times the employee's regular rate…."
16. Plaintiff, JOSE ANTONIO SOLANO, worked for Defendants as a chef from on or about September 30, 2010 through on or about December 24, 2014. Further he worked cleaning a closed restaurant for Defendants on December 25 and 26 of 2014.
17. Defendant's business activities involve those to which the Fair Labor Standards Act applies. Both the Defendant's business and the Plaintiff's work for the Defendant affected interstate commerce for the relevant time period. Plaintiff's work for the Defendants affected interstate commerce for the relevant time period because the materials and goods that Plaintiff used on a constant and/or continual basis and/or that were supplied to him by the Defendant to use on the job moved through interstate commerce prior to and/or subsequent to Plaintiff's use of the same. The Plaintiff's work for the Defendants was actually in and/or so closely related to the movement of commerce while he worked for the Defendant that the Fair Labor Standards Act applies to Plaintiff's work for the Defendant.

18. Upon information and belief, the Defendant Company had gross sales or business done in excess of $500,000 annually for the years 2009, 2010, 2011, 2012, 2013, and 2014.

19. Furthermore, Defendant regularly employed two or more employees for the relevant time period who handled goods or materials that travelled through interstate commerce, or used instrumentalities of interstate commerce, thus also making Defendant's business an enterprise covered under the Fair Labor Standards Act.

20. ALI BABA MEDITERRANEAN GRILL, INC., MEDITERRANEAN RESTAURANT HOLDINGS, INC., SHANAA & CHANAA ENTERPRISES, INC., GRIP MEDITERRANEAN GRILL LLC, GRIP COLLEGE PARK LLC, CAFÉ ALI BABA EXPRESS, INC., and GRIP PRESTON CENTER LLC are joint enterprises as defined by 29 U.S.C. § 203(r) as the related activities between the corporations, performed through unified operation and/or common control are being done for a common business purpose.

21. Defendants, ALI BABA MEDITERRANEAN GRILL, INC., MEDITERRANEAN RESTAURANT HOLDINGS, INC., SHANAA & CHANAA ENTERPRISES, INC., GRIP MEDITERRANEAN GRILL LLC, GRIP COLLEGE PARK LLC, CAFÉ ALI BABA EXPRESS, INC., and GRIP PRESTON CENTER LLC were each Plaintiff's joint employers during Plaintiff's employment with the Defendant Companies as the work performed by Plaintiff simultaneously benefited all Defendant Companies who were responsible for controlling Plaintiff's hours, determining Plaintiff's pay and which were operated by the same corporate officers for a common business purpose.

22. From on or about September 30, 2010 through on or about May 20, 2012, Plaintiff, JOSE ANTONIO SOLANO, worked an average of 66 hours per week and was paid an average straight time rate of $9.00 per hour, but was not paid the extra half-time rate all for hours

worked above 40 hours in a week as required by the Fair Labor Standards Act. Plaintiff therefore claims his unpaid overtime wages for hours worked above 40 in a week at the half-time rate from on or about September 30, 2010 through on or about May 20, 2012 as allowed by applicable law.

23. From on or about May 21, 2012 through on or about December 24, 2014, Plaintiff, JOSE ANTONIO SOLANO, worked an average of 66 hours per week and was paid an average straight time rate of $9.00 per hour at a variety of Defendants' restaurants. During this time period, Plaintiff often worked at multiple restaurants operated by Defendants on the same day, but was not paid anything at all for his travel time between work locations as required by the Fair Labor Standards Act. Plaintiff therefore claims his unpaid overtime wages for unpaid travel time worked above 40 hours in a week at the time-and-a-half rate from on or about May 21, 2012 through on or about December 24, 2014 as allowed by applicable law.

24. Furthermore, during the period from on or about December 25, 2014 through December 26, 2014, Plaintiff worked a total of fourteen hours cleaning a restaurant for which time he was not paid at all, in violation of the Fair Labor Standards Act. Plaintiff therefore claims the half-time overtime rate for any overtime hours worked above 40 hours in a week from on or about December 25, 2014 through December 26, 2014 derived from either his regular rate for that period of $9.00 per hour or the applicable Federal Minimum Wage rate of $7.25 per hour as allowed by applicable law.

25. Defendants willfully and intentionally refused to pay Plaintiff's overtime wages as required by the Fair Labor Standards Act as Defendants knew of the overtime requirements of the Fair Labor Standards Act and recklessly failed to investigate whether Defendants' payroll practices were in accordance with the Fair Labor Standards Act. Defendants remain owing

Plaintiff these wages from the commencement of Plaintiff's employment for the time period specified above.

Wherefore, the Plaintiff requests double damages and reasonable attorney fees from Defendants, jointly and severally, pursuant to the Fair Labor Standards Act as cited above, to be proven at the time of trial for all overtime wages still owing from Plaintiff's entire employment period with Defendants or as much as allowed by the Fair Labor Standards Act along with court costs, interest, and any other relief that this Court finds reasonable under the circumstances. *The Plaintiff requests a trial by jury.*

COUNT II. FEDERAL MINIMUM WAGE VIOLATION

COMES NOW PLAINTIFF, through Counsel, and re-adopts the factual and jurisdictional statements in paragraphs 1-25 above and further states:

26. 29 U.S.C. § 206 (a) (1) states "… an employer must pay a minimum wage of $5.15/hr to an employee who is engaged in commerce..." [29 U.S.C. § 206 (a) (1)]". On July 24, 2007 Federal minimum wage was raised to $5.85/hr. On July 24, 2008, Federal minimum wage was raised to $6.55/hr. On July 24, 2009, Federal minimum wage was raised to $7.25/hr.

27. Between the period of on or about December 25, 2014 through December 26, 2014, Plaintiff worked a total of fourteen hours cleaning a restaurant for which time he was not paid at all, in violation of the Fair Labor Standards Act as Plaintiff was not the applicable minimum wage of $7.25/hr. for that period.

28. The Defendants' wage payment practices to Plaintiff for this time period did not meet the federal minimum wage law requirements as Plaintiff was not paid the required federal minimum wage of $7.25/hr. for the fourteen hours worked and is therefore claiming $7.25/hr.

for those fourteen hours.

29. Defendants willfully and intentionally refused to pay Plaintiff's minimum wages as required by the Fair Labor Standards Act as Defendants knew of the Federal Minimum Wage requirements of the Fair Labor Standards Act and recklessly failed to investigate whether Defendants payroll practices were in accordance with the Fair Labor Standards Act. Defendants remain owing Plaintiff these wages since the commencement of Plaintiff's employment with Defendants for the time period specified above.

Wherefore, Plaintiff requests double damages and reasonable attorney fees from the Defendants, jointly and severally, pursuant to the Fair Labor Standards Act and as cited above, to be proven at the time of trial for all minimum wages still owing from Plaintiff's employment period with Defendants or, as much as allowed by the Fair Labor Standards Act --whichever is greater along with court costs, interest, and any other relief that this Court finds reasonable under the circumstances. *The Plaintiff requests a trial by jury.*

Respectfully submitted,

By: /s/ Joshua A. Petersen
J.H. Zidell, Esq.
Texas Bar No.: 24071840
Email: zabogado@aol.com
Robert L. Manteuffel
State Bar No. 12957529
Email: rlmanteuffel@sbcglobal.net
Joshua A. Petersen
Texas Bar No. 24085524
Email: josh.a.petersen@gmail.com

J.H. ZIDELL, P.C.
6310 LBJ Freeway, Ste. 112
Dallas, Texas 75240
Tel: (972) 233-2264
Fax: (972) 386-7610

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all counsel and parties of record by electronic service in accordance with the local rules of United States District Court for the Northern District of Texas, Dallas Division this 13th day of January, 2016.

/s/ Robert L. Manteuffel
Robert L. Manteuffel
Counsel for the Plaintiff(s)